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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION NO.5626/1994

BETWEEN:

Sri. Siddeswara Swamy Temple  
Bhaktha Mandaly, Devanahalli,  
No.242, Sippings Road,  
Bangalore-1, represented by  
its Secretary  
Sri.A.D.Siddalingappa.

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.. PETITIONER

(By Sri A.Krishna Bhat, Advocate)

AND:

1. State of Karnataka  
represented by the  
Secretary to the Department  
of Revenue, Government of  
Karnataka, Vidhana Soudha,  
Bangalore-1.
2. The Land Tribunal,  
Devanahalli Taluk,  
Bangalore District.
3. Sri.S.Siddaiah,  
since dead by L.Rs.
  - a) Sri.Appanna Radhya,  
S/o. Late Siddaiah,  
aged about 40 years,  
residing at Devanahalli,  
Town, Kote Beedi,  
Devanahalli,  
Bangalore District.



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- b) Sri. Malla Radhya,  
S/o late Siddaiah,  
aged about 60 years,  
residing at Devanahalli  
Town, Kote Beedhi,  
Devanahalli,  
Bangalore District.
- c) Smt. Shanthamma,  
W/o.Dakshina Murthy,  
aged about 35 years,  
residing at Devanahalli  
Town, Kote Beedhi,  
Devanahalli,  
Bangalore District.
- 4. Sri. B. Shivanna,  
S/o late K.N.Gurusiddaiah,  
major, Devanahalli Town,  
Devanahalli,  
Bangalore District.
- 5. Sri. Appajappa,  
S/o.Muninanjappa, major,  
residing at Maralubagilu,  
Devanahalli Town,  
Bangalore District.
- 6. Sri.M.Krishnappa,  
S/o late Pachanna  
Muniswamappa, aged  
about 48 years,  
residing at No.30,  
18th Cross,  
Thanappa Garden,  
Sampangiramanagar,  
Bangalore-27.

..RESPONDENTS

(By Smt.Bharathi Nagesh, AGA for R-1 & 2)

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This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to call for the records of ALRA 542/87 from the file of the Additional District Land Reforms Appellate Authority, Bangalore, etc.,


This Writ Petition is coming on for hearing this day, the Court made the following:-



ORDER

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The petitioner is not a Muzarai Institution. The temple is run by a committee of management elected by the Society registered under the Karnataka Societies Registration Act, 1960. The affairs of the management of the temple is being looked after out of the income derived from the property bearing Sy.No. 58 and 65 of Devanahalli kasaba area owned by the petitioner temple. It is the case of the petitioner that these lands are being cultivated by the temple by hiring the agricultural labourers. The second respondent Land Tribunal has granted occupancy rights in respect of the lands in question in favour of the respondents 3 to 5 without giving fair and reasonable opportunity to the petitioner temple. Therefore, the statutory provisions under Section 48(A) of the Karnataka Land Reforms Act, 1961, read with Rule 17 of the Karnataka Land Revenue Rules read with Section 34 of the Karnataka Land Revenue Act, 1964, is contravened. It is also further stated that the impugned order is not preceded by a proper, legal and valid enquiry required to be conducted under the provisions of the Karnataka Land Reforms Act, 1961. It is also



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contended that the second respondent Land Tribunal has no jurisdiction to entertain the applications of the respondents 3 to 5 and passed the impugned order as the claim made by the petitioner under Section 6(A) of the Karnataka Religious & Charitable Inam Abolition Act, 1977, has not come into existence as it was still born enactment. In support of his submission, reliance is placed by the learned counsel for the petitioner reported in SHRI KUDLI SRINGERI SANSTHANAM vs. STATE OF KARNATAKA (ILR 1992 Kar. 1827). Therefore, he would submit that the impugned order passed by the Tribunal is without jurisdiction. Hence, it is nullity in the eye of law. This question need not be considered by this Court as this question was not raised before the Tribunal, but the impugned order is not sustainable for the following reasons. From the record, it is noticed that fair and reasonable opportunity has not been given to the petitioner, an enquiry contemplated under Section 48(A) of the Act read with Rule 17 of the Karnataka Land <sup>Reforms</sup> Revenue Rules read with Section 34 of the Karnataka Land Revenue Act, 1964 was not conducted. In my view, the impugned order

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is not supported by valid and cogent reasons, considering the various relevant factors before granting occupancy rights in favour of respondents 3 to 5. It is also further noticed that the Tribunal has not followed the mandatory procedure laid down under Rule 19 of the Karnataka Land Reforms Rules, 1974 as the Tahasildar on receipt of the applications filed by respondents 3 to 5 shall send extracts of the applications to the Tribunal concerned and the Tahasildar shall verify the particulars mentioned in the application with reference to the revenue records including the record of rights wherever they are prepared and thereafterwards public notice and individual notice referred to sub-section (2) of Section 48(A) shall be issued in Form No.8 and 9 respectively, this procedure has not been followed. On this ground also the impugned order is not sustainable in law.

2. For the reasons stated above, the impugned order at Annexure-A is quashed. Writ Petition is allowed. Rule made absolute. The matter is remitted back to the Tribunal with a direction

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to dispose of the same within six months from  
the date of receipt of this order after giving  
opportunity to the petitioner and respondents  
3 to 5 on merits, but no costs are awarded.



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Bg/-250698

Sd/-  
JUDGE